

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8637 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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DINESH GRAHAK SEVA SAHAKARI MANDALI LIMITED

Versus

SHRI ROKAD

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Appearance:

MR JAYANT PATEL for Petitioners  
MS HARSHA DEVANI for Respondent No.1  
MS YAMINI J DESAI for Respondent No.2  
MR GAUTAM JOSHI for Respondent No.3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/12/97

ORAL JUDGEMENT

Challenge has been made by the petitioner, a primary level cooperative society, to the order dated 21st November 1997, annexure 'A', passed by the Assistant Director of Agriculture (Quality Control), Junagadh, under which licence to deal, in the business of

fertilizers, with its members and also to non members, agriculturists, valid upto 15th March 1998, has been cancelled.

2. It reveals from the order dated 21st November 1997, that this licence came to be cancelled by respondent No.1 on the basis of the letter of the District Cooperative Purchase and Sales Union Ltd., the respondent No.2 in this Special Civil Application, dated 19.11.97, wherein the said Union has informed the respondent No.1 that the principal certificate of dealership of fertilizers given to the petitioner has been cancelled by it. This letter has also been challenged by petitioner in this Special Civil Application.

3. One of the contentions raised by learned counsel for petitioner is that the order dated 21st November 1997 cancelling the licence of the petitioner for business of fertilizers has been made without providing any notice or opportunity of hearing to the petitioner. The learned counsel for respondents does not dispute this position. However, a contention has been made by learned counsel for respondents that when the certificate of dealership of the fertilizers has been cancelled by respondent No.2, the only consequential order would have been and should have been the cancellation of licence granted to the petitioner permitting it to carry on business of fertilizers.

4. I do not find any substance in the aforesaid contention of the learned counsel for respondents. Whatever may be the reasons, the cancellation of the licence of the petitioner for carrying on the business of supply of the fertilizer to its members and non members results in deprival of its rights to carry on the aforesaid business. The respondent No.1, though undisputedly has power to cancel the licence of the petitioner but before doing so it was obligatory on the part of respondent No.1 to follow the principles of natural justice and only thereafter it should have passed the appropriate order in accordance with law. The learned counsel for the petitioner submitted that the action of respondent No.2 could have also been taken by the petitioner in challenge before respondent No.1 and it could have got satisfied the respondent No.1 that the cancellation of dealership certificate of the petitioner by respondent No.2 is wholly arbitrary and unjustified. I do not consider it to be appropriate to go on this larger issue in this case, more so when I am of the considered opinion that only on the ground that the order passed by respondent No.1 cancelling the licence of the

petitioner has been made in violation of principles of natural justice, this writ petition deserves acceptance and as such the other contentions need not be gone into.

5. In the result, this Special Civil Application succeeds and the same is allowed and the order of respondent No.1, annexure 'A', dated 21st November 1997, is quashed and set aside. It is made clear that quashing and setting aside of this order by this Court will not come in the way of respondent No.1 to pass appropriate order in accordance with law after notice and opportunity of hearing to the petitioner. So far as the letter of respondent No.2 dated 19th November 1997 is concerned, it is suffice to say that it is open to the petitioner to take appropriate legal action against that letter before the appropriate forum. Rule made absolute in aforesaid terms with no order as to costs.

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(sunil)